

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Eurodesign Cabinets Inc.,
A California Corporation
13428 Benson Street
Chino, California 91710
San Bernardino County

ID No. (CAL 000 216 652).
Respondent.

Docket No. HWCA 2006-1087

STIPULATION AND ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and Eurodesign Cabinets Inc., a California Corporation (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. The Department issued an Enforcement Order to Respondent on July 20, 2006 (Attached as Exhibit 1).
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations, if any.
6. Respondent does not admit the allegations made in the Enforcement Order, except as follows: Respondent admits the facts alleged in the Enforcement Order for the purposes of any subsequent action brought pursuant to the

Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violations alleged in the Enforcement Order occurred.

SCHEDULE FOR COMPLIANCE

7.0. As of June 19, 2006, Respondent has adequately corrected or addressed the violations in the Enforcement Order to the satisfaction of the Department.

7.1. Respondent's April 2006 sampling results, provided to the Department in December 2006, for the waste stream that it treats in its permit by rule (PBR) units indicate that the waste stream is not hazardous. Consequently, the Department has determined that the units previously permitted by rule do not require further PBR requirements to regulatory agencies, so long as the waste stream treated remains non-hazardous.

7.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

And Mr. Doug Snyder
Hazardous Materials Program Manager
San Bernardino County Fire Department
620 South E Street
San Bernardino, California 92415

7.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her

designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

7.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section

shall be extended for the term of such Stop Work Order.

7.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

7.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this

Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

7.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

7.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The

extension request shall include a justification for the delay. Approval of such requested extension shall not be unreasonably withheld.

7.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

8.0. As specified below, Respondent shall pay a total of \$33,000, of which \$28,000 is a penalty and \$5,000 is a supplemental environmental project. An additional \$5,000 penalty shall be payable only upon failure to submit the required documentation in timely fashion as listed in paragraph 8.2 below. The form of payment for all amounts shall be cashier's check or money order ("check").

8.1. Of the total, \$10,000 shall be due on or before April 20, 2007 in two checks.

8.1.1. One check of \$5,000 as a supplemental environmental project shall be made payable to the Secretary of the California Environmental Protection Agency for deposit in the Environmental Enforcement Training Account as set forth in Penal Code section 14300 et seq., and delivered to Ms. Vivian Murai at the address noted below with two photocopies of the check.

8.1.2. A second check for \$5,000 in administrative penalty shall be made payable to Department of Toxic Substances Control, and shall be delivered as noted in section 8.2 below.

8.2. On or before June 20, 2007, any unpaid amount due under section 8.1 above as well as \$23,000 in administrative penalties are due to the Department.

Respondent's checks for the penalty amounts shall be made payable to
Department of Toxic Substances Control, and shall be delivered together with the
attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of each check shall be sent both:

To: Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

To: Ms. Vivian Murai
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, MS 23A
P. O. Box 806
Sacramento, California 95812-0806
(Adobe PDF copy to vmurai@dtsc.ca.gov is acceptable instead.)

8.3. The additional \$5,000 penalty, if any, shall be due and payable on or
before September 20, 2007, or subsequent date approved by DTSC in writing, in
the manner specified under section 8.2 above **unless** the Department receives by
that same date legible copies of Certificates of Satisfactory Completion showing
that at least four (4) of Respondent's employees satisfactorily completed the
California Compliance School (CCS), Modules I – V.

8.3.1. Timely submission of these certificates shall satisfy Respondent's
obligation to pay this additional \$5,000 penalty.

8.3.2. Only certificates of successful CCS completion for 4 separate and individual people holding the following job classifications, or their successor(s) or manager(s) will be acceptable. Successful CCS students whose certificate will qualify are in the following job classifications: a) EHS Training Coordinator; b) Maintenance Administrator; c) Engineering Manager; d) Finish Process Engineer or Finishing Department Manager.

8.4. If Respondent fails to make any payment as provided above, all unpaid balances shall be deemed an administrative penalty.

8.5. If Respondent fails to make payment as provided above, Respondent also agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.3 Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees,

contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

9.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

IT IS SO STIPULATED:

Dated: March 23, 2007

Original signed by James Skelton
James A. Skelton, President and CEO
Eurodesign Cabinets, Inc.
Respondent

Dated: April 10, 2007

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control

PAYMENT VOUCHER

DTSC Docket No.: HWCA 2006-1087

Respondent(s): Eurodesign Cabinets Inc.
13428 Benson St.
Chino, California 91710

ID No.: EPA ID # CAL 000 216 652.County: San Bernardino County

Total Due: \$ In 3 parts	\$33,000 on or before June 20, 2007 AND 3A) 4 successful completion certificates from CCS Or 3B) \$5000 as noted below
Part 1A: SEP (Supplemental Environmental Project) AND Part 1B: \$5,000 of the Penalty	Due April 20, 2007: \$ 10,000 in two checks <u>\$5,000 payable to the Secretary of Cal/EPA</u> <u>Please deliver this check or money order with 2 copies to:</u> Ms. Vivian Murai At the DTSC address listed below. <u>\$5,000 payable to the Dept. of Toxic Substances Control</u> administrative penalties <u>Please annotate the check or money order with the Docket number above,</u> <u>and deliver it with a copy of this Payment Voucher to:</u> Department of Toxic Substances Control Accounting Office 1001 I Street, 21st floor (MS 21A) P. O. Box 806 Sacramento, CA 95812-0806. <u>Please send a copy of the checks or money orders payable to DTSC to</u> <u>each of the following DTSC representatives:</u> Mr. Charles A. McLaughlin, Chief Ms. Vivian Murai SOEB - SCD DTSC Ofc. of Legal Counsel DTSC 1001 I Street (MS-23A) 8800 Cal Center Drive P.O. Box 806 Sacramento, CA 95826-3200 Sacramento, CA 95812-0806
Part 2: Penalty	<u>\$23,000 payable to the Dept. of Toxic Substances Control</u> by June 20, 2007. Follow the payment directions for Part 1B above.
Part 3: Certificates or \$5,000 Penalty: Part 3A OR Part 3B	<u>Due by September 20, 2007</u> , unless DTSC extends this deadline in writing. Either 4 successful completion certificates from CCS for the DTSC approved employees (no voucher necessary) OR <u>\$5,000 payable to the Dept. of Toxic Substances Control</u> (administrative penalty) Follow the payment directions for Part 1B above.

EXHIBIT 1

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Eurodesign Cabinets Inc.
A California Corporation
13428 Benson Avenue
Chino, California 91710
(San Bernardino County)

ID No. CAL 000 216 652

Respondent.

Docket No. HWCA 2006-1087

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Eurodesign Cabinets Inc. (Respondent), a California Corporation, corporate address 13428 Benson Avenue, Chino, California, 91710.

1.2. Site. The Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 13428 Benson Street, Chino, California, 91710 (Site).

1.3. Inspection. The Department inspected the Site on January 19, 2006.

1.4. Generator. The Respondent generates the following hazardous wastes: waste paint, coating, and solvents; rags and debris; water-based glue; water-based stain; and oil and oily sludge. The Respondent qualifies as a Resource Conservation and Recovery Act (RCRA) Large Quantity Generator (LQG) by generating greater than or equal to 1,000 kilograms of RCRA hazardous waste in any calendar month.

1.5. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when

the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Applicable Statutes and Regulations. Copies of the statutes and regulations applicable to this Order are attached as Exhibit A.

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated California Code of Regulations, title 22, section 66265.192 in that, on or about January 19, 2006, the Respondent failed to assess a Permit by Rule (PBR) gravity settling tank unit used to treat paint waste. The unit has been in operation at least since January 2004, and therefore should have had at least one tank system assessment certified by a registered professional engineer.

2.2. The Respondent violated California Code of Regulations, title 22, section 66265.16 in that, on or about January 19, 2006, the Respondent was a RCRA LQG that failed to have a written training plan for employees who handle hazardous waste, including job descriptions of employees, a written description of type and amount of introductory and ongoing training to be received (either on-the-job or formal training), and records of this training. The Respondent also failed to provide adequate hazardous waste training to employees to ensure the facility's compliance with hazardous waste laws and regulations relevant to the Respondent's operations.

2.3. The Respondent violated California Code of Regulations, title 22, section 67450.13 in that, on or about January 19, 2006, the Respondent failed to prepare and submit to the Certified Unified Program Agency (CUPA) a closure cost estimate for a PBR evaporator treatment unit, which has been in operation since at least January 2004.

2.4. The Respondent violated California Code of Regulations, title 22, section 67450.3(c)(1) by failing to submit annual PBR updates in January 2005 and

January 2006 for two onsite PBR treatment units (a gravity settling unit and an evaporator unit), while continuing to operate each unit.

2.5. The Respondent violated California Code of Regulations, title 22, section 66262.34(f) and Health and Safety Code section 25201 in that, on or about January 19, 2006, the Respondent failed to properly label six drums, one treatment tank, and one container of hazardous waste with all required information. Two drums lacked the accumulation start date while all other drums, the treatment tank, and the container lacked any labeling information. Labeling information needed but failed to include: the words "Hazardous Waste," accumulation start date, composition and physical state of the waste, hazardous properties, and name and address of the person(s) producing the waste. The unlabeled items described above comprised approximately 70% of all hazardous waste onsite at the time of inspection.

2.6. The Respondent violated California Code of Regulations, title 22, section 66262.34(a) and Health and Safety Code section 25201 in that, on or about January 19, 2006, the Respondent accumulated and stored two drums of hazardous waste for over 90 days, while qualifying as a LQG.

SCHEDULE FOR COMPLIANCE

3.1. Respondent has submitted documentation to the Department to show that the conditions forming the basis for violations 2.1, 2.2, 2.3, 2.4, 2.5., and 2.6 have been adequately corrected or addressed as of June 19, 2006.

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

Mr. Doug Snyder
Hazardous Materials Program Manager
San Bernardino County Fire Department
620 South E Street
San Bernardino, California 92415

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the

Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central

depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order

may also subject the Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$71,950.00. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment with the attached payment voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

Ms. Vivian Murai, Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 806
Sacramento, California 95812-0806

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance July 20, 2006

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control